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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,416	04/16/2004	Michael A. Pouchak	H0005553-1161.1133101	9859
90545	7590	12/08/2010		
HONEYWELL/STW Patent Services 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245			EXAMINER SUERETH, SARAH ELIZABETH	
			ART UNIT 3749	PAPER NUMBER
			NOTIFICATION DATE 12/08/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/826,416

Applicant(s)

POUCHAK ET AL.

Examiner

SARAH SUERETH

Art Unit

3749

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Sarah Suereth/
Examiner, Art Unit 3749

/Carl D. Price/
Primary Examiner, Art Unit 3749

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the prior art does not teach the method step of operating at one firing rate if the burner is in its first stage, and a second firing rate at a later point in time. Applicant's independent method claims state "activating at a normal firing rate if the stage is not the first stage" and "activating the stage at a first firing rate if the stage is the first stage". In response, the examiner has cited Christiansen, which clearly discloses having both an initial and a later firing rate. The examiner considers "initial" and "first" firing rates to be synonymous, and it is unclear why applicant argues the claim limitation was not addressed. Applicant also argues Christiansen does not clearly define the "boiler response interval". In response, the Examiner referenced col. 6 lines 1-17 for the explanation of "minimum response time", which is clearly referring to the response time of the boiler.

Applicant also argued that Christiansen does not provide explicit motivation for the combination. However, Christiansen teaches that allowing the user to set the initial firing rate is important to optimize burner performance by allowing the user to use their experience/knowledge to determine the best firing rate at start up (col. 3, lines 65-67). Christiansen teaches that a large gap between the desired firing rate and the initial rate is not desirable (col. 5 lines 5-15) because it increases the risk of thermal shock and wasted fuel (col. 2 lines 6-11). Applicant argues Christiansen teaches away from the claimed invention because both increasing or decreasing the later firing rate is taught. However, this is a clear teaching that the firing rate should be varied to suit the boiler conditions, and that increasing or decreasing the firing rate is obvious to obtain optimal burner performance. The additional teaching that the firing rate may be decreased does not negate the teaching that it may also be increased to suit the boiler conditions. Regarding the limitation that a temperature can trigger a firing rate adjustment, the predefined condition includes when the temperature of a circulating fluid in the boiler system drops below a predetermined level (col. 5, lines 22-23).